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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,872	01/10/2002	Robert P. Micciche	460.2060USU	6287

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/31/2003

6KB

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,872

Applicant(s)

MICCICHE ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claim Rejections - 35 USC § 112

1. Claims 3 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is indefinite in the recital of “an amine oxide surfactant” and “an anionic fluorosurfactant” because each is a species of “nonionic surfactant” recited in line 4, and “fluorosurfactant” recited in line 6, respectively.

Claim 8 is indefinite in the recital of “glycol” in line 3 because it reads on the other glycols recited in lines 3-8.

Claims in which the recited components may read upon another do not meet the requirements of 35 USC 112, second paragraph, see *Ex parte Ferm*, 162 USPQ 504 (BPAI 1968).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-12, 18-19, 23-25, 27, 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones et al. (US Patent No. 4,753,844), hereinafter "Jones".

Jones teaches a disposable article for interim cleaning of hard surfaces which comprises a non-woven substrate carrying an aqueous cleaning composition loaded onto the substrate, the aqueous composition comprising surfactant, water miscible solvent and alkalinity agent in sufficient amount to maintain the pH of the solution within the range of 8 to 12 (see abstract). In Example 3, Jones teaches a composition comprising 15.00 wt% isopropyl alcohol, 0.45 wt% alkylpolyglycoside nonionic surfactant, 0.15 wt% ammonium hydroxide, 0.20 wt% perfume, 0.15 wt% preservative which is 1-(2-Chloroallyl)-3,5,7-triaza-1-azonia adamantane and 84.05 wt% distilled water (see col. 11, lines 55-67). In Example 11, towellettes were prepared by loading 10 grams of the solution in Example 3 onto cellulose sheets weighing about 5 grams, wherein the cellulose sheets are grade 852, air lay nonwoven paper (see col. 13, lines 20-29). Jones teaches the limitations of the instant claims. Hence, Jones anticipates the claims.

4. Claims 1-12, 15-17, 20-21, 23-33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (WO 98/44185), hereinafter "Rogers".

Rogers teaches an article for treating fabrics comprising an absorbent carrier substrate in sheet form and from about 10 grams to about 30 grams of a liquid cleaning/refreshment composition releasably absorbed in said substrate, said substrate being wholly or partly covered by a fibrous coversheet which is permeable to said cleaning/refreshment composition (see abstract,

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claim 10). Rogers also teaches a pre-spotter on a sheet substrate, the pre-spotter comprising 1.00 wt% Neodol 23-6.5 (a nonionic surfactant), 9.2 wt% butoxy propoxy propanol (BPP), 0.65 wt% 1,2-octanediol, 1.00 wt% perfume, 0.125 wt% PEMULEN TR-1, 0.063 wt% KOH, 0.075 wt% KCl, 0.0003 wt% KATHON CG (preservative) (or a range of 0.0001-0.001 wt%) and 87.887 wt% water (see Example III on page 45). The composition can also comprise an anti-static agent which include the series of sulfonated polymers from about 2% to about 8% by weight of the composition (see page 46, lines 6-10). In Example II, Rogers teaches a pre-spotting formula for use with a stain receiver comprising 1.0 wt% hydrogen peroxide, 2.0 wt% BPP, nonionic surfactant, Kathon preservative and water having a pH in the range from 6-8 (see page 44, line 20 to page 45, line 18). Rogers also teaches that the carrier sheet/cover sheet article is placed in a pouch, 23 grams of liquid product is poured onto the carrier sheet/cover sheet and allowed to absorb for about 4 hours and the pouch is sealed immediately after the liquid product is introduced into the pouch and stored until time-of-use (see Example 1 on pages 42-44). Rogers also teaches that the carrier comprises optional low binder, hydroentangled absorbent material, especially a material which is formulated from a blend of cellulosic, rayon, polyester and optional bicomponent fibers (see page 9, lines 3-5). Rogers teaches the limitations of the instant claims. Hence, Rogers anticipates the claims.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 17, 32-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones as applied to the above claims.

Jones teaches the features as described above. In addition, Jones teaches the addition of volatile silicones, particularly in admixture with one or more of the solvents, which serve to provide a shine to the glass surface and as soiling retardant (see col. 7, lines 18-20; col. 10, lines 14-21). Additional optional ingredients which can be included in the aqueous solution include

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colorants and disinfectant (see col. 10, lines 22-26). The wipes must be packaged in such a way as to avoid the loss of volatile material by evaporation, for example, the wipes may be packaged individually in moisture-proof sachets comprised of metal foil and/or plastic film, or a continuous roll of moistened substrate, perforated at intervals, can be packaged in a container with a tight closure (see col. 11, lines 11-18). Jones, however, fails to specifically disclose the container being in inverted position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare a wipe packaged in a container which is inverted because this is just a matter of positioning a container.

8. Claims 1-21, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raso et al. (WO 99/19441), hereinafter "Raso".

Raso teaches a cleaning and disinfecting composition comprising 0.9 wt% amine oxide, 4.5 wt% C₈ alkyl sulfate, 0.7 wt% C₁₀ alkyl sulfate, 2.5 wt% ethanol, 0.09 wt% 1-hydroxyethylidene-bisphosphonic acid (HEDP), 0.8 wt% benzyl alcohol, 1 wt% C₉₋₁₁ pentaethoxylated alcohol, 0.1 wt% Thymol, 1.5 wt% hydrogen peroxide, water and minors up to 100 wt% having a pH of 8 (see Composition D on page 20, see also Compositions F and K on pages 20-21). Raso also teaches that the phosphonate compound like HEDP may be present in its salt form (see page 14, lines 13-23). The composition may optionally contain additional components such as solvents, for example, glycol ethers and polyols (see page 7, lines 13-27). The

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composition may further comprise a variety of other optional compounds including colorants, soil suspenders, thickeners like polymeric thickeners and perfumes (see page 13, last paragraph to page 14, line 2). Raso also teaches that the compositions may be executed in the form of wipes, wherein the wipes are impregnated, more preferably wetted with said liquid compositions and packaged in a plastic box (see page 18, first paragraph). Raso, however, fails to specifically disclose the loading ratio of the wipe.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the liquid composition impregnated in the wipe through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

9. Claims 1-14, 17-27, 30-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/30956, hereinafter "WO '956".

WO '956 teaches wet wipes for use in wiping surfaces in the home and in industry, in addition to their use on the human body such as for baby wipes, make-up removal and other skin care applications (see abstract). The wipe comprises a substrate which is coated or impregnated

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with a liquid composition, wherein the substrate may be woven or nonwoven and may be composed of natural or synthetic fibers (see page 7, last paragraph). The substrate can also have other components such as starch binders (see page 8, lines 13-25). The substrate may be produced by any method known in the art such as air-laying, wet laying or hydroentangling (see page 8, line 29 to page 9, line 3). The substrate may be treated with treatment chemicals such as fluorinated materials like fluoropolymers (see page 12, line 27 to page 13, line 25). The wet wipes are stacked and then stored in a rigid dispensing container (see page 13, lines 27-32). Typically, the composition will comprise from 2 to 50% by weight of actives and from 50% to 98% water (see page 15, lines 18-21). The composition comprises silicone based oils, emulsifying agent such as a copolymer of C10-C30 alkyl acrylates and one or more monomers of acrylic acid or methacrylic acid, preservative like methylparaben, ethylenediamine-tetraacetic acid and salts, polyhydric alcohols such as propylene glycol, water soluble lanolin derivatives, water soluble surfactants or detergents, preferably nonionic or amphoteric, pH adjusters, perfumes and the like (see page 15, line 23 to page 17, line 14). In preparing wet wipe products the composition can be applied to the substrate by spraying or coating (see page 17, line 21 to page 18, line 2). The composition is typically applied in an amount from about 0.5 g to 10 g per gram of substrate (see page 18, lines 9-11). WO '956, however, fails to specifically disclose the pH of the composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the compositions of WO '956 to have a pH within those recited

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considering the similarities of ingredients used in the composition and the utility in wiping surfaces in the home and in industry.

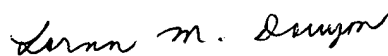
10. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

October 30, 2003



Lorna M. Douyon
Primary Examiner
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